

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

*In Re: Boston Scientific Corp.
Pelvic Repair System Products Liability Litigation
MDL No. 2326*

Civil Action No. 2:13-12118

SHORT FORM COMPLAINT

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The Master Complaint in MDL No. 2326 by reference. Plaintiff(s) further show the Court as follows:

1. Female Plaintiff:

Janice Salerno

2. Plaintiff Husband (if applicable):

Vincent Salerno

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

Not applicable

4. State of Residence:

Illinois

5. District Court and Division in which venue would be proper absent direct filing:

United States District Court Northern District of Illinois

6. Defendants (Check Defendants against whom Complaint is made):

- ☒ A. Boston Scientific Corporation
- ☐ B. American Medical Systems, Inc. ("AMS")
- ☐ C. American Medical Systems Holdings, Inc. ("AMS Holdings")

- ☐ D. Endo Pharmaceuticals, Inc.
- ☐ E. Endo Health Solutions Inc. (f/k/a Endo Pharmaceuticals Holdings, Inc.)
- ☐ F. Johnson & Johnson
- ☐ G. Ethicon, Inc.
- ☐ H. Ethicon, LLC
- ☐ I. C. R. Bard, Inc. ("Bard")
- ☐ J. Sofradim Production SAS ("Sofradim")
- ☐ K. Tissue Science Laboratories Limited ("TSL")
- ☐ L. Mentor Worldwide LLC
- ☐ M. Coloplast A/S
- ☐ N. Coloplast Corp.
- ☐ O. Coloplast Manufacturing US, LLC
- ☐ P. Porges S.A.

7. Basis of Jurisdiction:

- ☒ Diversity of Citizenship
- ☐ Other: _____

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

Federal subject matter jurisdiction in the constituent actions is based upon 28 U.S.C. § 1332(a), in that in each of the constituent actions there is complete diversity among Plaintiffs and Defendant(s) and the amount in controversy exceeds \$75,000.

Defendant(s) have significant contacts with the federal judicial district identified in the Short Form Complaint such that they are subject to the personal jurisdiction of the court in said district.

A substantial part of the events and omissions giving rise to Plaintiffs' causes of action occurred in the federal judicial district identified in the Short Form Complaint. Pursuant to 28 U.S.C. § 1391(a), venue is proper in said district.

B. Other allegations of jurisdiction and venue:

This is an action for damages in excess of \$75,000.00, exclusive of interest, costs and attorneys fees. Subject matter jurisdiction is proper pursuant to 28 U.S.C. § 1332. Defendant is registered to transact business in the State of Illinois.

The Defendant has transacted business within the State of Illinois and this Court has personal jurisdiction over Defendant under the Illinois Long Arm Statute, 735 Ill. Comp. Stat. 5/2-209 (2013).

The Defendant has committed a tortious injury in the State of Illinois caused by its acts and/or omissions outside of this State and it is subject to jurisdiction in this Court under the Illinois Long Arm Statute by virtue of its regular conduct and solicitation of business in this State, its continued derivation of substantial revenue from goods used or consumed in Illinois, and based on its otherwise persistent course of conduct in Illinois.

Defendant has purposefully and systematically committed acts and consummated transactions in the State of Illinois from which it has derived and continues to derive substantial revenues, and it has otherwise committed purposeful actions in the State of Illinois which should have led it to reasonably anticipate being haled into court in Illinois. Jurisdiction is proper in this Court with respect to the Defendant.

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff):

- ☐ The Uphold Vaginal Support System;
- ☐ The Pinnacle Pelvic Floor Repair Kit;

- ☐ The Advantage Transvaginal Mid-Urethral Sling System;
- ☐ The Advantage Fit System;
- ☒ The Lynx Suprapubic Mid-Urethral Sling System;
- ☐ The Obtryx Transobturator Mid-Urethral Sling System;
- ☐ The Prefyx PPS System;
- ☐ The Solyx SIS System; and/or
- ☐ Other

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products):

- ☐ The Uphold Vaginal Support System;
- ☐ The Pinnacle Pelvic Floor Repair Kit;
- ☐ The Advantage Transvaginal Mid-Urethral Sling System;
- ☐ The Advantage Fit System;
- ☒ The Lynx Suprapubic Mid-Urethral Sling System;
- ☐ The Obtryx Transobturator Mid-Urethral Sling System;
- ☐ The Prefyx PPS System;
- ☐ The Solyx SIS System; and/or
- ☐ Other

10. Date of Implantation as to Each Product:

On or about June 20, 2005

11. Hospital(s) where Plaintiff was implanted (Including City and State):

Franciscan St. James Health in Olympia Fields, Illinois

12. Implanting Surgeon(s):

Anthony Grimaldi, D.O., John Grimaldi, D.O.

13. Counts in the Master Complaint brought by Plaintiff(s)

- ☒ Count I – Negligence
- ☒ Count II – Strict Liability – Design Defect
- ☒ Count III – Strict Liability – Manufacturing Defect
- ☒ Count IV – Strict Liability – Failure to Warn
- ☒ Count V - Breach of Express Warranty
- ☒ Count VI – Breach of Implied Warranty
- ☒ Count VII (by the Husband) – Loss of Consortium
- ☒ Count VIII – Discovery Rule, Tolling and Fraudulent Concealment
- ☒ Count IX – Punitive Damages
- ☐ Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

- ☐ Other Count _____ If Plaintiff asserts additional claims, please state the factual and legal basis for these claims below:

Respectfully submitted,

/s/Stephen D. Phillips

/s/Elise A. Waisbren

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